

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

THE PUERTO RICO HIGHWAYS AND
TRANSPORTATION AUTHORITY,

Debtor

PROMESA
TITLE III

No. 17 BK 3283-LTS

(Jointly Administered)

**This filing relates only to HTA
Teresa Vizcarrondo Toro &
Adrián Mercado Jiménez
And their conjugal society**

MOTION REQUESTING PAYMENT OF SEVERANCE DAMAGES

COMES NOW, respondents, **ADRIÁN MERCADO JIMÉNEZ, TERESA VIZCARRONDO TORO, and their CONJUGAL SOCIETY**, and very respectfully allege and pray:

1. That on June 1, 2018 herein appearing party filed Proof of Claim stating that The Puerto Rico Highways and Transportation Authority herein after HTA on the local expropriation case TS/SJ 2011-0240 left part of the expropriated property landlocked (enclavada).
2. Said Response with its Exhibits is enclosed.
3. That the enclosed property consists of 41.186 cuerdas, as can be seen by the enclosed documents.
4. That herein appearing party is the owner of 25% of the 41.186 cuerdas as per the enclosed documents.
5. That the value of each cuerda according to HTA is \$17,300.00. Exhibit II

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6. As the property has 41.186 cuerdas and herein appearing party owns 25% of said property or 10.29 cuerdas, his ownership is worth \$17,300.00 x 10.29= \$178,017.00.

7. The real property acquisition requirements apply to any acquisition of real property for a federal program or project and to programs and projects where there is federal financial assistance for any part of the costs. 42 USC §4601(4).

8. "Severance Damages in eminent domain cases consider the loss of value to the remainder (portion of property left after the taking) above and beyond the value of the land and structures taken by the government" Biersdorf & Associates, Severance Damages in Eminent Domain.

9. "Thus, interest at a proper rate to compensate for the delay in payment constitutes an element of just compensation*". "Because just compensation is a constitutional requirement* the rate of interest to be paid as delay compensation is ultimately a matter for judicial determination" Mark R. Kaptan, Interest Rates in Eminent Domain: is 6% Just Compensation in a 12% World, 12 LOYOLA L.A. L. Review 721 (1979)

10. That the property has remained landlocked (enclavada) since 2011, depriving herein appearing party all viable access to the same.

11. If the acquisition of only a portion of the property would leave the owner with an uneconomic remnant the head at the Federal agency concerned should offer to acquire that remnant 42 USCS §4651.

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12. Herein appearing party has a right to interest on the money owed due to the years the property has been landlock (enclavada) by HTA, thus interests due since 2012 to 2022 at 1.0% $\$1,780.00 \times 11 = \$19,580.00$, as per Treasury Note average rates.

13. That herein appearing party requests expedite payment of \$178,017.00 plus \$19,580.00 = \$197,597.00.

14. That herein appearing parties are 85 and 81 years old respectively and thus request this petition be granted as soon as possible.

15. That title of our portion of the property upon payment of the \$197,597.00 will vest to the HTA.

16. That it is requested that this motion be granted promptly in consideration to the advance age of herein appearing party and an Order be issued to HTA to issue a check for \$197,597.00 payable to herein appearing party.

17. That all of the facts mentioned in this motion are true and have never been contested by HTA.

WHEREFORE, it is respectfully requested that this motion be GRANTED and that Puerto Rico Highways and Transportation Authority be ordered to issue a check in the name of herein appearing parties for \$197,597.00 and title of the portion of the enclosed property vested to the Puerto Rico Highways and Transportation Authority, all without costs and attorney's fees.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico this 23rd day of February 2023.

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I HEREBY CERTIFY that a copy of this motion was electronically filed by Movant, Adrián Mercado Jiménez, using the CM/ECF system, which will send notification to all the parties which have made an electronic appearance in this case.

In Guaynabo, Puerto Rico on this 23rd of February, 2023.

s/RICARDO PASCUAL-VILLARONGA
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I CERTIFY that copy of this motion has been sent by Certified and Return Receipt Mail on this date to: 1) **Clerk's Office**, United States District Court, 150 Chardon Ave., Federal Building, San Juan, Puerto Rico 00918; 2) **Attorneys for the Financial Oversight and Management Board as representative for the Debtor, Martin J. Bienenstock and Brian S. Rosen, PROSKAUER ROSE LLP**, Eleven Time Square, New York, New York 10036; 3) **Co-Attorneys for the Financial Oversight and Management Board as representative for the Debtor, Hermann D. Bauer, O'NEILL & BORGES LLC** 250 Muñoz Rivera Ave. Suite 800, San Juan, PR 00918-1813 4) **Counsel for the Creditors' Committee, PAUL HASTINGS LLP, Luis A. Despina**, 200 Park Avenue, New York, New York 10166; 5) **Commonwealth of Puerto Rico, Claims Processing Center c/o Kroll Restructuring Administration LLC**, 850 Third Avenue, Suite 412, Brooklyn, NY 11232; 6) **Bankruptcy Court Puerto Rico, Case MMLID: 168560 EPOC ID: 1703283007322**, José V. Toledo Federal Building, 300 Recinto St. S Ste 100, San Juan, PR 00901-1964.

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